

**Remarks:**

In the Office Action mailed on November 17, 2008, the Examiner rejected Claims 1-3, 5-7, 10, 12-17 and 19-32. Claims 1-3, 5-7, 10, 12-17 and 19-32 are pending in the application.

**35 USC 112, second paragraph**

Claim 21 was rejected under 35 USC 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner states that “Claim 21 recites ‘wherein said physical means comprises silicon dopants in the face of the silicon substrate layer that is opposite to the active face’ (emphasis added). However, claim 21 depends from claim 20 which defines ‘an additional layer of silicon’ that ‘comprises physical means...’ In other words, the base claim 20 requires the physical means to be part of the additional layer of silicon, while claim 21 contradicts claim 20 by reciting that the physical means is part of the silicon substrate layer. For the purpose of this rejection, it will be assumed that the “physical means” is as recited in independent claim 20. (Office Action Page 2 Paragraph 3).

Applicants would like to point out that Claim 21 in fact depends from Claim 5 and not Claim 20 as asserted by the Examiner. Claim 5 depends from Claim 1 which recites:

A chip for a chip-containing portable article comprising:

a silicon substrate layer having an active face with circuits integrated therein defining a central processor unit and memories; and

an additional layer of silicon that:

is sealed to the active face of the silicon substrate layer by a sealing layer;

covers at least part of said active face; and

comprises physical means for providing physical protection against the action of electromagnetic radiation in the infrared range at a wavelength longer than 1  $\mu\text{m}$

Applicants argue that the additional layer of silicon is a part of the substrate layer since the additional layer is sealed to the active face of the substrate layer. Therefore, it is not surprising that the substrate layer is able to provide “physical means for providing physical protection against the action of electromagnetic radiation in the infrared range at a wavelength longer than 1  $\mu\text{m}$ ; ...” as recited in Claim 21. <<Pehr – is this true or does the examiner have a point??>>

Accordingly, Applicants respectfully request withdrawal of the rejection under 35 USC 112, second paragraph.

### **35 USC 103**

Claims 1, 5-7, 14-17 and 19-23, 25-28 and 30-32 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Orcutt (US 4,712,129), hereinafter Orcutt, in view of Zhang. (US 5,886,364), hereinafter Zhang. Claims 10, 12 and 13, 24 and 29 stand rejected under 35 USC 103(a) as being unpatentable over Orcutt, in view of Zhang and further in view of Kobachi, et al., (US 5,811,797), hereinafter Kobachi. Applicants traverse the rejections.

Applicant will address the 35 USC 103 rejections in the Appeal Brief that is being filed concurrently with this Amendment.

## **CONCLUSION**

It is submitted that all of the claims now in the application are allowable. Applicants respectfully request consideration of the application and claims and its early allowance. If the Examiner believes that the prosecution of the application would be facilitated by a telephonic interview, Applicants invite the Examiner to contact the undersigned at the number given below.

Applicants respectfully request that a timely Notice of Allowance be issued in this application.

Respectfully submitted,

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